

ENTERED

December 04, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

LOWELL QUINCY GREEN,
(TDCJ-CID #518622)

Plaintiff,

vs.

CIVIL ACTION H-20-3954

BOBBY LUMPKIN, et al.,

Defendants.

MEMORANDUM ON DISMISSAL

Lowell Quincy Green, an inmate of the Texas Department of Criminal Justice - Correctional Institutions Division (“TDCJ-CID”), sued in November 2020, alleging civil rights violations resulting from the denial of due process. Green has neither paid the \$350.00 filing fee nor sought leave to proceed as a pauper. From his litigation history, the Court presumes that he seeks leave to proceed in forma pauperis. Green, proceeding pro se, sues eight prison and parole officials.

The threshold issue is whether Green’s claims should be dismissed as barred by the three-strikes provision of 28 U.S.C. § 1915(g).

I. Green’s Allegations

Green complains that his 2013 conviction for aggravated robbery in Cause Number 2012-709-C2 is illegal. He asserts that several constitutional errors took place during his trial in McLennan County, Texas. Green seeks unspecified compensatory and punitive damages.

II. Analysis

A prisoner is not allowed to bring a civil action in forma pauperis in federal court if, while incarcerated, three or more of his civil actions or appeals were dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, unless he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

A national prisoner index shows that Green has filed at least fifty-two petitions for a writ of habeas corpus and civil rights suits since September 2015. Two of Green's civil rights lawsuits and one appeal have previously been dismissed as frivolous. *See Green v. United States of America*, 4:18-CV-1927 (S.D. Tex.) (dismissed as frivolous on September 19, 2018); *Green v. State of Texas*, Appeal No. 17-50165 (5th Cir.)(dismissed as frivolous on November 27, 2017); and *Green v. State of Texas*, 6:16-CV-0424 (W.D. Tex.)(dismissed as frivolous on February 13, 2017).

In the present case, Green has not alleged, nor does his complaint demonstrate, that he is in imminent danger of serious physical injury. Accordingly, Green is barred under 28 U.S.C. § 1915(g) from proceeding in forma pauperis in this action.

III. Conclusion

Green's constructive motion to proceed as a pauper, (Docket Entry No. 1), is DENIED. The complaint filed by Lowell Quincy Green (TDCJ-CID #518622) is DISMISSED under 28 U.S.C. § 1915(g).¹ All pending motions are DENIED. Green is warned that continued frivolous filings

¹

In *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1998), the Fifth Circuit barred an inmate from proceeding further under the statute, except for cases involving an imminent danger of serious physical injury, and dismissed all of Adepegba's i.f.p. appeals pending in that court. The Fifth Circuit noted that the inmate could resume any claims dismissed under section 1915(g), if he decided to pursue them, under the fee provisions of 28 U.S.C. §§ 1911-14 applicable to everyone else.

may result in the imposition of sanctions.

The Clerk will provide a copy of this Order by regular mail, facsimile transmission, or e-mail to:

- (1) the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas 78711, Fax: 512-936-2159; and
- (2) the Manager of the Three-Strikes List for the Southern District of Texas at: Three_Strikes@txs.uscourts.gov.

SIGNED at Houston, Texas, on December 3, 2020.



VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE